

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
)
) Criminal No. 05-10102-JLT
v.)
)
)
JOHN BRUENS, MARY STEWART,)
MELISSA VAUGHN AND)
MARK SIROCKMAN,)
Defendants.)

**MOTION FOR AN ORDER EXCLUDING TIME
FROM OCTOBER 17, 2006 UNTIL APRIL 17, 2007
PURSUANT TO THE SPEEDY TRIAL ACT
(ASSENTED TO)**

Comes now the United States, by and through its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts and Assistant United States Attorney Mary Elizabeth Carmody, and moves this Court to enter an order excluding time in this case from October 17, 2006 until April 17, 2007. In support of this motion, the government states the following:

(1) On April 14, 2005, the grand jury returned an 8 count indictment, charging the defendants with one count of conspiracy to defraud the United States in violation of Title 18, United States Code, Section 371, and seven counts of offering or paying illegal remunerations in connection with their employment at Serono, Inc., in order to induce physicians to prescribe the drug Serostim, which is approved for the treatment of AIDS wasting, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A), and Title 18, United States Code, Section 2. This

is a complex health care fraud case.

(2) The defendants appeared before the Court jointly on May 2, 2005 for their initial appearances and arraignments in this case. Since their arraignment on May 2, 2005, the period of time from May 2, 2005, until October 17, 2006 has been excluded for Speedy Trial purposes.

(3) On or about September 19, 2006, all defendants filed a series of motions, to which the government responded on October 17, 2006. The Court conducted a hearing on the motions on January 16, 2007, and entered an order denying them on that same date. Pursuant to section 3161(h)(1)(F), the period of time from October 17, 2006 through January 16, 2007 is excluded for Speedy Trial purposes.

(4) In addition, on January 16, 2007, the Court set a trial date for April 17, 2007, despite the defendants' request that trial be held in May, 2007. The period of time between January 16, 2007, and April 17, 2007, is necessary so that the defendants have an adequate period of time to prepare for trial, and determine what, if any, evidence they intend to present in their defense. The parties are in agreement that the ends of justice would be served by this delay and that the delay is necessary to avoid a miscarriage of justice. The parties further agree that denial of this motion would, despite the exercise of due diligence, deny the parties the reasonable time necessary for

effective trial preparation.

Wherefore, the United States requests that this motion be granted, and that the Court enter an order excluding the period of time from October 17, 2006 through and including April 17, 2007, pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(1)(F), 3161(h)(8)(A), 3161(h)(8)(B)(I), 3161(h)(8)(B)(ii), and 3161(h)(8)(B)(iv).

A proposed order is attached.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: */s/ Mary Elizabeth Carmody*

MARY ELIZABETH CARMODY
SUSAN M. POSWISTILO
Assistant United States Attorneys
John Joseph Moakley United States
Courthouse
One Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3290

Certificate of Service and Local Rule 7.1 Certification

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF). All counsel or record for the defendants have indicated their assent to this motion.

/s/ Mary Elizabeth Carmody

MARY ELIZABETH CARMODY
Assistant United States Attorney

Date: January 22, 2007

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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Defendants.)

ORDER

This matter is before the Court on the Assented to Motion of the United States to exclude time pursuant to the Speedy Trial Act, 18 U.S.C. § 3161. Having reviewed the matter, the Court finds as follows:

(1) On April 14, 2005, the grand jury returned an 8 count indictment, charging the defendants with one count of conspiracy to defraud the United States in violation of Title 18 United States Code, Section 371, and seven counts of offering or paying illegal remunerations in connection with their employment at Serono, Inc., allegedly to induce physicians to prescribe the drug Serostim, which is approved for the treatment of AIDS wasting, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A), and Title 18, United States Code, Section 2. This is a complex health care fraud case.

(2) Pursuant to previous Orders entered by this Court, the period of time between May 2, 2005, through October 17, 2006, has

been excluded from the provisions of the Speedy Trial Act.

(3) The period of time from October 17, 2006, through and including January 16, 2007, is excludable pursuant to 18 U.S.C. § 3161(h)(1)(F).

(4) The ends of justice warrant the exclusion of the time period from January 16, 2007 through and including April 17, 2007, and outweigh the best interest of the public and the defendant in a speedy trial.

THEREFORE, IT IS HEREBY ORDERED that for the reasons set forth above, that for purpose of computing the time under the Speedy Trial Act of 1974 within which the trial must commence, the period from October 17, 2006, through and including April 17, 2007, has been and shall be deemed an excludable period pursuant to 18 U.S.C. §§ 3161(h)(1)(F), 3161(h)(8)(A), 3161(h)(8)(B)(I), 3161(h)(8)(B)(ii), and 3161(h)(8)(B)(iv).

Dated:

JOSEPH L. TAURO
UNITED STATES DISTRICT JUDGE